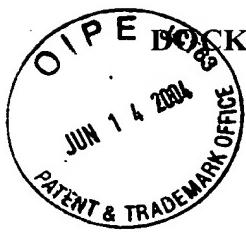


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DOCKET NO.: IOMC-0039

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:

Maki Wakita, Katsutoshi Mukaijima and
Shoji Takahashi

Application No.: 09/763,014

Filing Date: May 29, 2001

For: Card-Type Magnetic Recording Device

Confirmation No.: 1290

Group Art Unit: 2652

Examiner: Allen T. Cao

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OFFICE OF PLEADINGS

EXPRESS MAIL LABEL NO: EL 997980210 US
DATE OF DEPOSIT: June 14, 2004

EL 997980210 US

MS Appeal Brief - Patent
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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Technology Center 2600

**APPEAL BRIEF TRANSMITTAL
PURSUANT TO 37 CFR § 1.192**

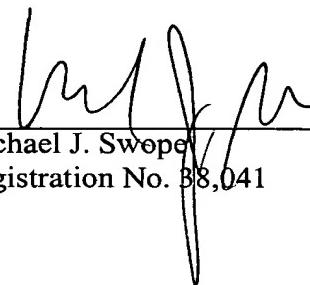
Transmitted herewith in triplicate is the APPEAL BRIEF in this application with respect to the Notice of Appeal received by The United States Patent and Trademark Office on November 13, 2003.

- Applicant(s) has previously claimed small entity status under 37 CFR § 1.27 .
- Applicant(s) by its/their undersigned attorney, claims small entity status under 37 CFR § 1.27 as:
 - an Independent Inventor
 - a Small Business Concern
 - a Nonprofit Organization.
- Petition is hereby made under 37 CFR § 1.136(a) (fees: 37 CFR § 1.17(a)(1)-(4) to extend the time for submission of the Appeal Brief responsive to filing the Notice of Appeal filed on November 13, 2003 to and through June 14, 2004 comprising an extension of the shortened statutory period of FIVE (5) months.

	SMALL ENTITY		NOT SMALL ENTITY	
	RATE	Fee	RATE	Fee
<input checked="" type="checkbox"/> APPEAL BRIEF FEE	\$165	\$	\$330	\$330.00
<input type="checkbox"/> ONE MONTH EXTENSION OF TIME	\$55	\$	\$110	\$
<input type="checkbox"/> TWO MONTH EXTENSION OF TIME	\$210	\$	\$420	\$
<input type="checkbox"/> THREE MONTH EXTENSION OF TIME	\$475	\$	\$950	\$
<input type="checkbox"/> FOUR MONTH EXTENSION OF TIME	\$740	\$	\$1480	\$
<input checked="" type="checkbox"/> FIVE MONTH EXTENSION OF TIME	\$1005	\$	\$2010	\$2010.00
<input type="checkbox"/> LESS ANY EXTENSION FEE ALREADY PAID	minus	(\$)	minus	(\$)
TOTAL FEE DUE		\$0		\$2340.00

- The Commissioner is hereby requested to grant an extension of time for the appropriate length of time, should one be necessary, in connection with this filing or any future filing submitted to the U.S. Patent and Trademark Office in the above-identified application during the pendency of this application. The Commissioner is further authorized to charge any fees related to any such extension of time to Deposit Account 23-3050. This sheet is provided in duplicate.
- A check in the amount of \$.00 is attached. Please charge any deficiency or credit any overpayment to Deposit Account No. 23-3050.
- Please charge Deposit Account No. 23-3050 in the amount of \$2340.00. This sheet is attached in duplicate.
- The Commissioner is hereby requested to grant an extension of time for the appropriate length of time, should one be necessary, in connection with this filing or any future filing submitted to the U.S. Patent and Trademark Office in the above-identified application during the pendency of this application. The Commissioner is further authorized to charge any fees related to any such extension of time to deposit account 23-3050. This sheet is provided in duplicate.

Date: June 14, 2004



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DOCKET NO.: IOMC-0039

PATENT

N THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re application of:

Maki Wakita, Katsutoshi Makaijima and Shoji Takahashi

Application No.: **09/763,014**

Group Art Unit: **2652**

Filed: **May 29, 2001**

Examiner: **Allen T. Cao**

For: **Card-Type Magnetic Recording Device**

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DATE OF DEPOSIT: June 14, 2004

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APPEAL BRIEF UNDER 37 C.F.R. § 1.192

Commissioner of Patents and Trademarks
Washington, D.C. 20231

Sir:

This is an appeal from the final rejection of claims 13-24 in an Official Action dated May 16, 2003. Appellants filed a Notice of Appeal from the Examiner's final rejection on November 13, 2003.

This appeal brief is being submitted in triplicate, pursuant to 37 C.F.R. § 1.192(a).

Authorization to charge Deposit Account 23-3050 has been given to cover the fee of \$320.00 for filing an Appeal Brief, as set forth in 37 C.F.R. § 1.17(c).

Appellants respectfully request that the Examiner's final rejection be reversed and that the application be remanded to the examining group for allowance.

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1. Appellants respectfully traverse the Examiner's objection to the substitute specification under 35 U.S.C. 132 and the rejection of Claims 13-24 under 35 U.S.C. § 112.	5

A. REAL PARTY IN INTEREST

The real parties in interest in the present appeal are Citizen Corporation and Iomega Corporation based on Assignments recorded at Reel 012234/0063 and Reel 012242, Frame 0692.

B. RELATED APPEALS AND INTERFERENCES

There are no other appeals or interferences known to the Appellants, the Appellants' legal representative, or the Assignee that will directly affect or be directly affected by or have a bearing on the Board's decision in the present appeal.

C. STATUS OF CLAIMS

The status of the claims is as follows: Claims 13-24 stand finally rejected and are now on appeal. Claims 13-24 are reproduced in the Appendix. Presently, no claims are allowed.

The present application was filed on May 29, 2001, claiming priority under 35 U.S.C. § 371 to PCT/JP00/03911 and containing claims 1-12. In an Official Action dated August 21, 2002, the Examiner rejected claims 1-12 under 35 U.S.C. § 101 based on statutory double patenting. A Response thereto was filed in the United States Patent and Trademark Office on February 19, 2003 and claims 1-12 were canceled, claims 13-24 were added and a substitute specification was filed.

In a final Official Action dated May 16, 2003, the Examiner rejected claims 13-24 under 35 U.S.C. § 112 as containing new matter and objected to the specification under 35 U.S.C. § 132 as introducing new matter. On September 16, 2003, A Response to the final Official Action was

filed requesting reconsideration along with a Petition Under 37 C.F.R. § 1.182 to Accept Amendment By A Substitute Specification Pursuant to 37 C.F.R. § 1.121.(b)(3) was filed.

D. STATUS OF AMENDMENTS

No amendments have been filed subsequent to the final rejection of claims 13-24 on October 23, 2001.

E. SUMMARY OF THE INVENTION

[0001] The subject invention provides a card-type magnetic recording device, which makes it possible to mount a disk within dimensions that are restricted within narrow limits and permits a head arm to move smoothly between a position for access of the head arm to the disk and a position for retreat of the head arm from the disk, and further has the head arm resistant to shocks. The a head arm, to which a head is mounted, is formed in a flat plate-like shape and adopts a swing arm structure permitting swing motions about an axis of a base part, while a load ramp is arranged at a distance from the peripheral edge of the disk.

F. ISSUES

- 1. Was the filing of the substitute specification properly objected to under 35 U.S.C. § 132 on the grounds of introducing new matter.*

- 2. Are claims 13-24 properly rejected under 35 U.S.C. § 112 as introducing new matter.*

G. GROUPING OF CLAIMS

As to the rejection applied against Claims 13-24 under 35 U.S.C. § 112, the rejected claims stand or fall together.

H. ARGUMENT

1. Appellants respectfully traverse the Examiner's objection to the specification under 35 U.S.C. § 132. Appellants traverse and submit that substitution of the specification was proper.

The substitute specification is a correct English translation of the Japanese International Application PCT/JP00/03911 filed under 35 U.S.C. § 371 in the national phase filing in the U.S. Patent and Trademark Office for the above-identified application. The substitute specification includes no new matter but rather simply clarifies that which was already present in the application by way of the international application.

The substitute specification corrects an error that inadvertently occurred. As stated in the previously submitted Declaration by Naoyuki Horibe, Mr. Horibe inadvertently provided an incorrect English translation of the Japanese International Application PCT/JP00/03911. As stated in the previously submitted Declaration of Valerie Chicchi, Ms. Chicchi inadvertently filed the incorrect English translation under 35 U.S.C. § 371 in the national phase filing in the U.S. Patent and Trademark Office on May 29, 2001. The incorrect English translation is from an unrelated case filed by Applicants at about the same time as the instant case.

Nevertheless, a copy of the *correct* International Application as filed under 35 U.S.C. § 371(c)(2) was transmitted to the United States Patent and Trademark Office by the International Bureau. The error that occurred was merely the filing of an incorrect translation in accordance with MPEP § 1893.01(d). Because the original Japanese version of the PCT application contained the information that the applicant now seeks to introduce through substitutes

specification was in the original PCT version albeit in Japanese, that substitute specification cannot be new matter.

The drawings, i.e., Figures 1 through 8, as originally filed with the U.S. Patent and Trademark Office on May 29, 2001 were and are correct and provide additional support to the notion that no new matter has been introduced. No amendment or substitution is made for Figures 1 through 8.

2. Appellants respectfully traverse the Examiner's rejection of claims 13-24 under 35 U.S.C. § 112. Appellants traverse and submit that the claims introduce no new matter..

Regarding the rejection of claims 13-24, the claims are fully supported by the drawings as well as the original Japanese version of the international application. As such, Appellants submit that the rejection of the claims under 35 U.S.C. § 112 was improper for similar reasons to those that apply to the objection to the substitute specification, but with the added provision that the originally filed drawings provide support for the claims.

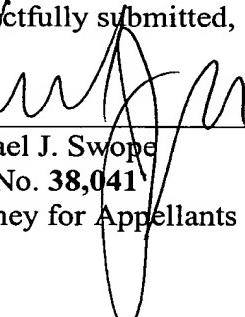
I. CONCLUSION

For the reasons presented above, the Examiner has failed to establish a proper basis for the objection of the specification under 35 U.S.C. § 132 and the rejection of the claims under 35 U.S.C. § 112. The Examiner is therefore requested to reconsider and withdraw the Final Rejection, and to allow the application in its present form.

Should the Examiner decline to withdraw the objection under 35 U.S.C. § 132 and the rejection under 35 U.S.C. § 112, the Board is respectfully requested to reverse the Examiner's rejection.

Favorable action with early allowance of all pending claims is earnestly requested.

Respectfully submitted,


Michael J. Swope
Reg. No. 38,041
Attorney for Appellants

Dated: June 14, 2004

WOODCOCK WASHBURN KURTZ
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APPENDIX

Claims presently in application:

13. A card-type magnetic recording device comprising:
a head arm which carries a magnetic recording/reproducing head carried;
a motor for driving to revolve a disk which serves as a recording medium for recording of information;

a load ramp permitting to place said head on standby after retreat of the head from the surface area of the disk; and

an information processor:

wherein said head arm is formed in the shape of a flat plate and adopts a swing arm structure permitting swing motions about an axis in the base part; and

said load ramp is arranged at a distance from the peripheral edge of the disk.

14. A card-type magnetic recording device according to claim 13, further comprising guide means for guiding the end of said head arm from said load ramp toward the surface area of the disk and also in the reverse direction.

15. A card-type magnetic recording device according to claim 14, wherein said guide means is provided on said head arm.

16. A card-type magnetic recording device according to claim 14, wherein said guide means is composed of a structure provided on the head arm and a structure provided on the side of the load ramp.

17. A card-type magnetic recording device comprising:

a head arm of swing arm structure, which carries a magnetic recording/reproducing head;
a motor for revolving a disk serving as a recording medium for recording/reproduction of information;

a load ramp permitting to place said head on standby after retreat of the head from the surface area of the disk;

an information processor; and

a guide arm provided on the head arm at a position at a distance from the end toward the intermediate position in the longitudinal direction in a manner such that it projects toward the side opposite to the disk;

wherein the projection end of said guide arm remains on the load ramp when the end of the head arm, which moves toward the disk, is disengaged from the load ramp, thus maintaining the head arm end at an isolation position where the head does not make contact with the disk within the disk surface area, during the time until the guide arm is disengaged from the load ramp.

18. A card-type magnetic recording device according to claim 17, wherein said load ramp has a support part for supporting the end of the head arm and a rail part for supporting the end of the guide arm, and each of the ends of the support part and the rail part on the side of the disk is formed in the shape of a taper surface of a thickness gradually reduced toward the disk.

19. A card-type magnetic recording device according to claim 18, wherein the surface, which serves as the head arm end, of the support part is inclined toward the base part of the head arm to bring a contact portion of the head arm end with the support part closer to the base part of the head arm.

20. A card-type magnetic recording device according to claim 18, wherein the taper surface in said support part begins at position closer to the disk side than the taper surface of the rail part.

21. A card-type magnetic recording device according to claim 18, wherein the projection end of the guide arm is located closer to the inner side of the head arm than the end of the head arm while maintaining a difference in altitude, and the rail part and the support part are formed to maintain the same difference in altitude as the above difference.

22. A card-type magnetic recording device according to claim 20, wherein the projection end of the guide arm is located closer to the inner side of the head arm than the end of the head arm while maintaining a difference in altitude, and the rail part and the support part are formed to maintain the same difference in altitude as the above difference.

23. A card-type magnetic recording device according to claim 17, wherein a part of the opposite edges of the head arm in a longitudinal direction are bent in the shape of letter U in section, and a lead wire is housed in the bent portion.

24. A card-type magnetic recording device according to claim 17, wherein the head arm has a support spring whose end is formed in the shape of a gimbal part, the head is carried on the gimbal part, and the end of the gimbal part is engaged with an engagement hole formed at the end of the head arm.